



BOARD OF SELECTMEN

Town Offices

50 Billerica Road
Chelmsford, MA 01824-2777
(978) 250-5201 FAX: (978) 250-5252

Clare L. Jeannotte, Chairman
Patricia Wojtas, Vice Chairman
Eric R. Dahlberg, Clerk

George R. Dixon, Jr.
Sean M. Scanlon

June 8, 2009

Ross Altobelli, Town Planner
Michael Green, Chairman, Planning Board

VIA EMAIL: raltobelli@westfordma.gov, mgreen@westfordma.gov

RE: Proposed Westford Asphalt Plant at 540 Groton Road

Dear Mr. Altobelli, Mr. Green, and Members of the Westford Planning Board:

The following comments are offered, for the record, by the Chelmsford Board of Selectmen, in connection with your current Public Hearing on the proposed asphalt manufacturing plant at 540 Groton Rd., Westford.

Many Chelmsford residents - predominantly, but not solely, those residing in the immediate area of the proposed plant - have contacted us to express concerns about the plant as it is currently proposed. In addition, one or more of our Board members have attended the public hearings and participated in the site walk related to this proposal.

Concerns of our residents and our Board relate to the following broad categories:

1. Air quality and impact to health of any particulate matter generated by the operation of the plant, trucks and equipment, and exhaust from trucks;
2. The current requirement, per posted signage, that truck traffic from the entire site turn left toward Chelmsford when exiting the plant;
3. The impact of truck noise, including the potential use of "Jake" brakes as trucks make use of the ramp from Route 3 at Route 40 at any hour of day or night;
4. The impact of increased truck traffic on local roads;
5. The proposed unrestricted hours permitting 24/7 operations; and
6. Odors that may emanate from the plant or the trucks carrying the output (the plant will, of necessity, be operating at times of the year when residents wish to have windows open and retain their right to quiet enjoyment).

We are working from the following understanding of the relationship of Chelmsford to the site:

1. The driveway for the proposed project is located approximately 700 feet east of the Chelmsford town line.
2. The closest construction is located more than 850 feet - and eventual processing is close to 900 feet - from the closest Chelmsford residential property line. Within the 850 feet is a vegetated wetland area measuring approximately 570 feet from the closest residential property line.
3. Jim Pearson, Chelmsford Town Engineer, has confirmed that this portion of Groton Road (Rt. 40) is not within the state jurisdiction and therefore is a local roadway within the Town of Westford.

Last year, from June to October 2008, our Board held public hearings on an application for increased fuel storage at an asphalt plant on Oak Street, Chelmsford. Throughout our hearing process, we learned that while compliance with the Clean Air Act is law, enforcement is difficult to regularly monitor. State environmental agencies are stretched thin, and compliance violations could go undetected if strict monitoring is not in place. The best time to lay out reporting and compliance requirements seems to be at the time any permit is issued, whether locally or in the Department of Environmental Protection (DEP) air permit. We encourage clear definition of the timing of testing

and reporting and a requirement that all reporting to or by any regulatory authority be shared with town officials in Chelmsford and Westford.

Prior to the withdrawal by the applicant, we had been in discussion regarding conditions we sought in order to mitigate citizen concerns. We would urge your consideration of similar conditions in the event this permit is ultimately granted.

Those under consideration included:

1. Require the applicant to immediately provide copies to the appropriate Town Board with copy to the Town Manager of all air quality, groundwater and noise tests and reports that are performed on the site going forward.
2. Require the Applicant to notify appropriate Town Board, with copy to the Town Manager, of any notice of non-compliance, enforcement order, or any other notification issued to the Applicant by DEP for violations of any environmental laws or regulations.
3. Establish a telephone hotline providing a toll free number for individuals to register complaints against the Applicant in connection with the operations at the Site. The Applicant shall post the telephone number at the entrance of the Site and shall immediately inform the Board of Health of any complaints lodged and any responsive actions taken by the Company.
4. Institute practices to control diesel emissions from construction equipment on the site, including without limitation the following: (a) turning off diesel combustion engines on construction equipment not in active use, and on trucks that are idling while waiting to load or unload material for five minutes or more; and (b) locating diesel equipment away from the general public and sensitive receptors (e.g., fresh air intakes, air conditioners and windows).
5. Require that all vehicles that enter or exit the Site carrying a load be covered.
6. Require the Applicant to regularly sweep and clean all roads within the Site, and to pave all roads that are used on a regular basis in order to reduce dust and other debris on the Site.
7. Enforce the speed limit within the Site.
8. Institute practices to control nighttime noise pollution resulting from the operation of the Site.
9. Prohibit all vehicles entering and exiting the Site from using "Jake" brakes in order to reduce excessive noise from such vehicles.

Further, please note that masking agents are available to use in production which may curb the odors associated with the product. Fines could be considered for trucks with tarps not secured over their load. Consideration could be given to utilizing more natural gas in production, rather than oil, to produce with cleaner emissions. The settlement agreement between the Commonwealth and Aggregate Industries Northeast Region in 2008 cited violations of the Massachusetts Clean Waters Act, the Massachusetts Hazardous Waste Management Act, and the Massachusetts Oil and Hazardous Material Release Prevention and Response Act and its regulations. This industry does not have a track record of "policing" itself. Please take every measure available to clarify monitoring and reporting requirements within your permitting process.

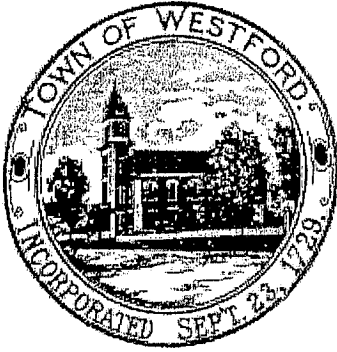
On behalf of the residents of Chelmsford, thank you for your consideration.

Sincerely,



Clare L. Jeannotte
Chairman

cc: Chelmsford Board of Selectmen
P. Cohen, Chelmsford Town Manager
Westford Board of Selectmen
J. Ross, Westford Town Manager
J. Arciero, State Representative



TOWN OF WESTFORD

Office of the Town Manager

Town Hall
55 Main Street
WESTFORD, MA 01886
(978) 692-5501 FAX (978) 399-2557

CONFIDENTIAL – EXECUTIVE SESSION MATERIAL

August 2, 2010

Paul Cohen
Town Manager
Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824

Dear Paul:

As you know, the town of Westford's Planning Board denied the special permits for Newport Materials, who were seeking approval from the town to build an asphalt plant on the property at 540 Groton Road. During the lengthy review period, we were contacted by you and other Chelmsford officials and citizens who were strongly opposed to the construction of this asphalt plant due to concerns such as noise, odor, and increased truck traffic.

Shortly after the Planning Board's denial of the special permits, the town received a Notice of Action and Complaint from Newport Materials, LLC and 540 Groton Road, LLC. As you know, the cost of defending this claim will be substantial. We are respectfully requesting that the town of Chelmsford contribute to the legal costs of defending this claim. Any assistance you may provide will be appreciated.

Thank you for considering our request.

Sincerely,

Jodi Ross



Office of the Town Manager

Paul E. Cohen
Town Manager

50 Billerica Road
Chelmsford, MA 01824-2777

978.250.5201
Fax: 978.250.5252

August 11, 2010

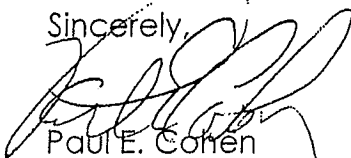
Ms. Jodi Ross
Town Manager
Town of Westford
55 Main Street
Westford, MA 01886

Re: Newport Materials Litigation

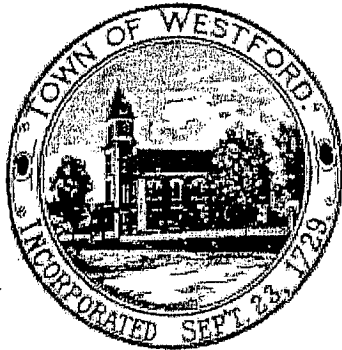
Dear Ms. Ross:

The Town of Chelmsford Board of Selectmen considered your August 2, 2010 request for Chelmsford to contribute towards the legal costs to defend the complaint filed by Newport Materials, LLC regarding the Westford Planning Board's denial of special permits pertaining to the construction of an asphalt plant at 540 Groton Road in Westford. Due to the uncertain nature and the open-ended funding request, the Chelmsford Board of Selectmen declined to honor your request.

Sincerely,



Paul E. Cohen
Town Manager



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Office of the Town Manager

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CONFIDENTIAL – EXECUTIVE SESSION MATERIAL

September 14, 2010

Paul Cohen
Town Manager
Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824

Dear Paul:

In August, the Westford Board of Selectmen formally requested financial assistance from the town of Chelmsford for our appeal of the claim against Westford by Newport Materials, who were seeking approval from the town to build an asphalt plant on the property at 540 Groton Road. As you know, during the lengthy review period, we were contacted by you and other Chelmsford officials and citizens who were strongly opposed to the construction of this asphalt plant due to concerns such as noise, odor, and increased truck traffic.

At your request, we are providing an estimate of the legal costs for us to defend this claim, which we believe will be in the vicinity of \$200,000. Therefore, we respectfully request that Chelmsford contribute to these costs in the amount of \$75,000.

Thank you for considering our request.

Sincerely,

Jodi Ross



Office of the Town Manager

Paul E. Cohen
Town Manager

50 Billerica Road
Chelmsford, MA 01824-2777

978.250.5201
Fax: 978.250.5252

VIA E-Mail

CONFIDENTIAL – EXECUTIVE SESSION MATERIAL

October 8, 2010

Ms. Jodi Ross
Town Manager
Town of Westford
55 Main Street
Westford, MA 01886

RE: Newport Materials Litigation – 540 Groton Road, Westford

Dear Jodi:

The Town of Chelmsford Board of Selectmen met in executive session to consider your correspondence dated September 14, 2010 which requests that the Town of Chelmsford contribute \$75,000 to assist the Town of Westford in the defense of the Newport Materials litigation. The Chelmsford Selectmen unanimously voted to decline any financial assistance. While the two towns share mutual concerns in their opposition to the impacts of the proposed asphalt plant, the financial constraints brought about by this difficult economic period prevent the Town of Chelmsford from being able to fund a portion of the Town of Westford's litigation costs.

Sincerely;

Paul E. Cohen
Town Manager